



NAME OF POLICY: Informal Gatherings

POLICY MANUAL: Governance

INTRODUCTION

Informal gatherings or discussions provide a valuable opportunity to enhance Council decision-making processes by providing opportunities for Elected Members to become better informed and seek clarification on issues. Informal gatherings will not be used in such a way as to obtain, or effectively obtain, a decision of the Council or Council Committee. Open and transparent Council meetings and Council Committee meetings underpin representative democracy and ensure public confidence in the Council's decision-making processes.

PURPOSE

This Policy is intended to clearly outline the purpose of, and the basis upon which, the Council will hold informal gatherings or discussions in accordance with section 90(8a) of the *Local Government Act 1999* (the Act) and regulation 8AB of the *Local Government (General) Regulations 2013* (the Regulations).

This Policy aims to ensure that the statutory requirements for openness and transparency in Council decision-making are observed; while providing an opportunity for confidential discussions, as appropriate, between Elected Members, where warranted by the nature of the subject matter to be discussed.

KEY PRINCIPLES

The Council plays a very important policy-making role, requiring the identification of community needs, setting objectives to meet those needs, establishing priorities between competing demands and allocating resources.

Section 6 of the Act, stipulates that one of the primary roles of the Council is to:

to act as a representative, informed and responsible decision-maker in the interests of its community.

The Council is a corporate body and as such, can only make decisions by resolutions that have been passed by the majority of Elected Members at a Council Meeting or Committee Meeting.

The Council's decision-making structure is comprised of the Council and a number of Committees operating on a functional or 'as needed' basis. This structure ensures that matters are dealt with objectively, fairly and in a timely manner.

Decisions are made, in keeping with legislative requirements, to:

- determine policies to be applied by the Council in exercising its discretionary powers;
- determine the type, range and scope of projects to be undertaken by Council; and
- determine the resources which are to be made available to undertake such works and service.

The Council understands that community consultation is important and, indeed, fundamental to its role, and is committed to engaging with the community across a broad range of issues. Community consultation is designed to inform the decision making process and the Council's Community Consultation Policy clearly sets out the mechanisms which the Council will consider when determining to undertake consultation with the community.

Conversely, informal gatherings and discussions are conducted to assist the Elected Members of the Council in their role, as they provide a forum and opportunity for Elected Members to discuss issues and options in an informal environment, without obtaining or effectively obtaining a decision outside a formally constituted meeting of the Council or Council Committee. Such a forum enables Elected Members to question, clarify and develop a greater understanding of issues, which supports and contributes to informed decision making in Council or Council Committee meetings.

It is, therefore, important to distinguish informal gatherings and discussion (including "designated" informal gatherings or discussions) from community consultation mechanisms.

SCOPE

This Policy applies to all informal gatherings or discussions of the Council or a Council Committee, including designated informal gatherings and discussions.

Regulation 8AB defines a *designated informal gathering or discussion* as:

... an event organised and conducted by or on behalf of the Council or Chief Executive Officer to which Members of the council or chief executive officer (as the case may be) have been invited and that involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the council or council committee.

Accordingly, an informal gathering which involves discussion of a matter that is not, or is not intended to be, part of the agenda for a formal meeting of the Council or Council Committee, is not a designated informal gathering or discussion. In those circumstances, the provisions set out at regulation 8AB have no application.

POLICY

Section 90(8) of the Act provides that the Council can hold informal gatherings or discussions provided that a matter which would ordinarily form part of the agenda for a formal meeting of the Council or Council Committee is not dealt with in such a way as to obtain, or effectively obtain, a decision on a matter outside a formally constituted meeting of the Council or a Council Committee.

The Act sets out the following (non exhaustive) examples of informal gatherings or discussions that might be held under subsection (8):

- planning sessions associated with the development of policies or strategies;
- briefing or training sessions;
- workshops; and
- social gatherings to encourage informal communication between members or between members and staff.

Informal gatherings or discussions of Elected Members or Council Committee Members (either with or without Council staff) are, by their nature, non-compulsory. However, all Elected Members and Council Committee Members are encouraged to attend informal gatherings or discussions, particularly where the informal gathering or discussion is intended to provide history, context or additional information regarding matters of importance to the Council.

Designated Informal Gatherings or Discussions

Designated informal gatherings and discussions will be held where the matters to be discussed are, or are intended to be, part of the agenda for a formal meeting of the Council or Council Committee.

A designated informal gathering or discussion will be used solely for the purpose of information sharing and not for the purpose of obtaining, or effectively obtaining, a decision on a matter outside a formally constituted meeting of the Council or a Council Committee.

Informal Gatherings or Discussions to be Open to the Public, except in Certain Circumstances

Designated informal gatherings or discussions will be held at a place open to the public, except for when the Council or Chief Executive Officer has declared that the designated informal gathering or discussion may be held in confidence.

The Council or Chief Executive Officer may, on a case-by-case, declare a designated informal gathering or discussion to be a 'confidential informal discussion' where the designated informal gathering or discussion is:

- (i) a planning session of a general or strategic nature; or
- (ii) a briefing session relating to information or a matter of a confidential nature within the ambit of section 90(3) of the Act (refer to Attachment A).

An informal gathering or discussion of the Council or a Council Committee, which is not a designated gathering or discussion for the purposes of the Regulations, will not be open to the public, unless otherwise determined by the Council or Chief Executive Officer.

Procedures applying to Informal Gatherings or Discussions

The Chief Executive Officer and the Council are responsible for ensuring designated informal gatherings or discussions are conducted in accordance with the Act.

By their very nature, informal gatherings or discussions (whether designated or not) are not subject to the procedural meeting requirements of the Act or the *Local Government (Proceedings at Meetings) Regulations 2013*.

Designated informal gatherings or discussions will be chaired by the Chief Executive Officer or a senior Council officer.

Formal minutes will not be recorded for any informal gathering or discussion, whether designated or not.

If a designated informal gathering or discussion has been declared by the Council or Chief Executive Officer to be a 'confidential informal discussion', then the designated informal gathering or discussion may be attended by Elected Members, the Chief Executive Officer and any other person invited to attend by the Council or the Chief Executive Officer.

If a 'confidential informal discussion' declaration has been made in respect to only some of the items to be discussed at a designated informal gathering or discussion, then these confidential items will be scheduled to be discussed at the end of the designated informal gathering or discussion. The designated informal gathering or discussion will be open to the public until immediately prior to the commencement of any discussion regarding the confidential items.

Where an informal gathering or discussion (whether designated or not) is open to the public, members of the public are only permitted to attend as an observer, and are not permitted to approach or otherwise to engage with Elected Members during the course of the informal gathering or discussion, and are not permitted to ask questions or contribute to the discussion.

Any member of the public that fails to observe these protocols, or is otherwise disruptive during the course of the informal gathering or discussion, will be asked to leave.

Publication of Information relating to Designated Informal Gatherings or Discussions

For all designated informal gatherings or discussions, the following information will be published on the Council's website:

- (i) the place, date and time at which the designated informal gathering or discussion will be held;
- (ii) the matter that is to be discussed at the designated informal gathering or discussion;
- (iii) whether or not the designated informal gathering or discussion is to be held at a place open to the public; and
- (iv) where the discussion is to be held in confidence, the reason.

REVIEW PROCESS

The Council will review this Policy within twelve (12) months of the next Local Government General Election which is scheduled to occur in 2022. The Council does however have the ability to review this Policy at any time if considered desirable and necessary.

INFORMATION

For further information in relation to this Policy, please contact the Council's General Manager, Governance & Community Affairs, on 8366 4549 or via email: Imara@npsp.sa.gov.au.

ADOPTION OF THE POLICY

This Policy was adopted by Council on 28 November 2016.

The Council reviewed and amended this Policy on 6 May 2019.

TO BE REVIEWED

November 2023

Attachment A

Information and Matters within the ambit of Section 90(3) of the Local Government Act 1999

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- (b) information the disclosure of which:
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council; and
 - (ii) would, on balance, be contrary to the public interest;
- (c) information the disclosure of which would reveal a trade secret;
- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which:
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
- (e) matters affecting the security of the Council, members or employees of the Council, or Council property, or the safety of any person;
- (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (g) matters that must be considered in confidence in order to ensure that the Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (h) legal advice;
- (i) information relating to actual litigation, or litigation that the Council or Council committee believes on reasonable grounds will take place, involving the Council or an employee of the Council;
- (j) information the disclosure of which:
 - (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); and
 - (ii) would, on balance, be contrary to the public interest;
- (k) tenders for the supply of goods, the provision of services or the carrying out of works;
- (l) *deliberately left blank as there are no provisions under (l).*
- (m) information relating to a proposed amendment to a Development Plan under the *Development Act 1993* before a Development Plan Amendment proposal relating to the amendment is released for public consultation under that Act;
- (n) information relevant to the review of a determination of a Council under the *Freedom of Information Act 1991*.